

Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Thus, claim 1 has been amended to delete the substances having a biological regulatory effect or physiological activity for mammals, and has also been amended to restrict the amounts of trehalose and water-soluble hemicellulose, as well as the ratio of trehalose to water-soluble hemicellulose. These limitations are supported by the disclosures at page 5, lines 2-5; page 6, lines 20-24; and page 6, line 30 to page 7, line 2 of the specification.

In view of these amendments to claim 1, Applicants have cancelled claims 5, 7, 9 and 15.

Since claims 5 and 7 have been cancelled, claims 6 and 8 have both been amended to depend from claim 1.

The patentability of the present invention over the disclosures of the references relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

The rejection of claims 1, 7, 9, 10, 12 and 15 under 35 U.S.C. §102(e) (35 U.S.C. §102(b)?) as being anticipated by Morimoto et al. has been rendered moot, since this rejection does not include claim 5. As indicated above, the amount of trehalose has been limited to 25-85 % by weight, based on the total weight of the composition. Since this range is even narrower than the range for the amount of trehalose in claim 5, it is apparent that amended claim 1 is no longer subject to the rejection based on Morimoto et al.

Incidentally, the Examiner says in paragraph 4 of the Office Action that Morimoto et al. teach 0.2 - 2 % trehalose. The Examiner is, however, wrong in this statement. Morimoto et al. only teach that soybean protein/cocoa granule contains 0.2 - 2 % by weight of sugar alcohol, and neither teach nor suggest that trehalose is contained in an amount of 0.2 - 2 % by weight. Trehalose is not a sugar alcohol. Morimoto et al. teach or suggest nothing as to the amount of trehalose in protein/cocoa granule.

The rejection of claims 1-4, 12 and 15 under 35 U.S.C. §102(e) as being anticipated by Narimatsu et al., as well as the rejection of claims 1-4, 12 and 15 under 35 U.S.C. §102(e) as being anticipated by Nakamura et al. and the rejection of claims 1 and 15 under 35 U.S.C. §102(e) as being

anticipated by Vermeer, have been rendered moot, since none of these rejections includes claim 5 as discussed above in connection with the rejection based on Morimoto et al.

The rejection of claims 1-8 under 35 U.S.C. §103(a) as being unpatentable over Shiseido in view of Hattori has been rendered moot, since this rejection does not include claim 9. That is, claim 1 has been amended to recite a weight ratio of trehalose to water-soluble hemicellulose in the range of 30:1 to 1:25. Since this range is even narrower than that set forth in claim 9, it is apparent that amended claim 1 is not subject to the rejection.

In summary, in view of the claim amendments, all of the rejections have been rendered moot.

Therefore, the application is considered to be in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Takayuki WATANABE et al.

By: 

Michael R. Davis

Registration No. 25,134

Attorney for Applicants

MRD/pth
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
September 30, 2003